

Indeed, it is questionable whether the Commission can impose mandatory electronic filing requirements at all. Requiring a citizen of the United States to file comments via computer might very well violate the First Amendment to the Constitution to the United States. Filing electronically would appear to impose a constitutionally suspect threshold requirement on persons wishing to exercise their rights as citizens to share their opinion of their government with their government and petition their government for redress of grievances. Because requiring a person to use a computer and a telephone to file a document chills the person's exercise of free speech until he has mastered the computer, the Commission would be ill advised to require the filing of any document electronically.

At the core of the matter before the Commission is whether electronic filing results in an impermissible reduction in the access to government and its processes. Given the obvious condition precedent to use of the ULS, i.e. the ownership or access to sophisticated computer hardware and software and the ability to employ same for the purposes proposed by the agency, it is apparent that the ULS, as mandatory, would create such an impermissible burden on protected classes of individuals. That the burden would be imposed on all members of the public is without doubt. That the burden will be unequally felt, creating a greater adverse impact on minorities, small business, the aged (who are less likely to be computer literate), the poor and other protected members of the public, is amply articulated above.

The Commission might have inadvertently been drawn into a false premise through the successful collection of auction receipts -- that all licensees have the type of resources and sophistication necessary to participate and be successful before the agency, while employing electronic filing methods. Yet, SBT knows of no study performed by the agency which explores whether the agency's auction electronic application and participation process actually reduced through its mandated methodology the number or character of persons who participated. Is it possible that more persons might have participated had the process been left out of cyberspace? Perhaps.

But more importantly for this proceeding is the possible danger in perspective which is created when the FCC staff fails to remind itself that, as compared to an individual member of the public, it has available to it the entire resources of the federal budget in its creation of alleged electronic "solutions" to the burden of managing the spectrum and administering the public's request. A fourteen-year-old girl, seeking her first amateur radio license, might have budgetary constraints that are not adequately reflected in the Commission's proposals. And a consumer of telephone service, whose service has been unfairly discontinued, may not even have an interconnected phone line to file the electronic complaint. A town of fewer than 100 persons, of which there are thousands, should not have to tax its citizens to purchase the necessary computer equipment in order to provide communication for the volunteer fire department and neighborhood watch. These average members of our society should not have to file a

request for waiver of the ULS rules proposed by the agency to file an application or make a complaint.

SBT respectfully urges the Commission to think a bit more about the harm which a mandatory ULS system will create. Without intentionally seeking to do so, the Commission may have created a poll tax to be paid in dollars to computer manufacturers, long line providers, software makers, and computer repairmen. Certainly, there are many, large, well financed entities that can afford whatever computer requirement the agency might create. But the law is designed to protect everyone's access to government, not just AT&T's.

The Commission's Signature Requirement

The Commission's treatment of the signature requirement in an electronic realm is contradictory and unfairly applied. By reducing an electronic signature to nothing more than typewriting, the Commission would lose its ability to hold a licensee liable for the representations made in its application. Since the Commission would have no means of verifying that such an electronic signature had actually been applied by the named applicant, the Commission would not be able to hold any applicant responsible for a misrepresentation in an application or any licensee responsible for operation outside the terms of a modified authorization.⁵ To preserve its ability to prosecute those who violate

⁵ Consider the case of the licensee of a station. An application is filed and granted to modify the license to a different frequency or a different site. The licensee continues to operate the station at the old parameters. Without a signature which was

its rules, the Commission should require that any electronic signature be traceable to a specific person, such as by the use of a public system of signature data encryption.

Unauthorized Practice of Law

The Commission should choose this opportunity to restrict the unauthorized practice of law that occurs before the agency on a daily basis. A Federal Communications Commission application is a legal, as well as technical, document and is bound by FCC Rules. The Commission should demand that any entity filing an FCC application on behalf of a third party, be a licensed attorney.

Such a restriction would protect both the public and the Commission's processes. The Commission's Rules state that party to a matter before the Commission may represent himself or may be represented by a licensed attorney. The Commission has not, in the past, enforced its rules regarding attorney representation in application matters, but could and should since legal consequences flow from each entry in an application for authorization. when one person advises another as to which response to a particular question is more appropriate or acceptable than another, that person is advising the applicant as to points of law and rendering a legal opinion, and should be held to the same standards and ethical obligations as licensed attorneys.

traceable to the licensee, the Commission would not be in a position to contest the licensee's claim that someone had filed a malicious license modification application without his knowledge.

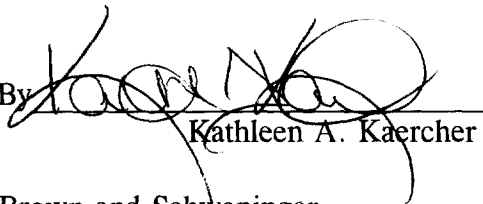
Reinventing the Wheel

Although the Commission intends to use its own wide area network for access to the ULS, the Commission provided no justification for not using the Internet, instead, or as an alternative to its own network. For the Commission to undertake the costs of establishing a new two lane road parallel to the Information Superhighway, which is supported by millions of other users and uses would be an action of questionable reasonableness. By providing full access to the ULS via the Internet, the Commission can impose the full cost of maintaining the ULS on those who file applications, while providing access to the widest possible portion of the public at the lowest possible user cost. Before proceeding further, the Commission should consider fully the comparative costs and benefits of providing access to the ULS via the Internet and, upon due consideration, should provide full access via the Information Superhighway.

Conclusion

Finally, Small Business in Telecommunications would like to emphasize that it is not opposed to the Commission's Universal Licensing System. SBT heartily congratulates the Commission for undertaking such a monumental task with obvious progress. SBT does not, however, believe that ULS should be made mandatory at any time, for any purpose. The ULS should be made to stand, or fall, on its own merits, without artificial support from the Commission.⁶

Respectfully submitted,
SMALL BUSINESS IN TELECOMMUNICATIONS

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Dated: May 22, 1998

⁶ As they said in the movie Field of Dreams, "if you build it, they will come," likewise, if the Commission's ULS improves interaction with the agency as revolutionarily as planned, users will flock to it. Counsel for SBT has used the system, and provided certain "bugs" are fixed, would be happy to continue to use the system in the future.

EXHIBIT I

[Text Version]



PUBLIC NOTICE

Federal Communications Commission

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Internet: <http://www.fcc.gov>

[ftp.fcc.gov](ftp://ftp.fcc.gov)

Washington, D.C. 20554 February 12, 1997

**RECORD IMAGING PROCESSING SYSTEM
IS DOWN DUE TO HARDWARE FAILURE**

On February 11, 1997, service on RIPS was suspended due to a hardware failure which has rendered the system inoperable. All docketed and rulemaking data (images and histories) stored on RIPS will not be available until service has been restored. Any urgent request for information will be addressed on a case-by-case basis by contacting the Reference Operations Division located at 1919 M Street, N.W., room 239, (202) 418-0270. Duplicates of current filings are available for viewing in room 230. The RIPS operation will resume service once the repairs have been completed and the system fully tested.

We apologize for any inconvenience caused by this interruption of service.

For further information you may contact Patricia Rawlings at (202) 418-0294.

-FCC-



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March 14, 1997

RECORD IMAGE PROCESSING SYSTEM AVAILABLE FOR USE ON MARCH 17, 1997

The Records Image Processing System (RIPS) will be available for use to researchers on Monday,

March 17, 1997.

RIPS experienced a series of computer hardware failures beginning on February 7, 1997. The process of restoring the system was complicated by the fact that the computer and jukebox hardware are approximately six years old.

During the time that RIPS was down, the Commission received more than 23,000 pages of comments in docketed proceedings. It will take approximately two weeks to scan this backlog of filings into RIPS. The FCC will, therefore, continue to provide the duplicate copies of docket filings from behind the counter in the FCC Reference Center, Room 239 and comply with the other interim procedures used during the time RIPS was not working.

If you have any questions or comments concerning RIPS, please call Bill Cline at (202) 418-0267.

-FCC-

EXHIBIT II

PUBLIC NOTICE

Federal Communications Commission
1919 M St., N.W.
Washington, D.C. 20554

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October 15, 1997

RECORD IMAGING PROCESSING SYSTEM
CURTAILS OPERATION ON FRIDAYS

Effective Friday, October 24, 1997, and every Friday until further notice, the Office of Public Affairs, Reference Operations Division, will shut down the Record Image Processing System (RIPS) from public and staff access. The Commission is in the process of replacing RIPS, the Commission's aging document imaging system, which currently provides access to all docketed and rulemaking proceedings (images and histories) with a new electronic processing system. In order to ensure the smooth transition from RIPS to the replacement system, Electronic Comment Filing System (ECFS), the Commission must limit access to RIPS to expedite the migration process. Therefore, the hours of operation for RIPS will be Monday through Thursday, 9:00 a.m. to 4:30 p.m., only. In order to ensure timely access to any major filings the hours of operation for RIPS may be modified without further notice.

As always, duplicates of current filings are available for viewing in Room 230 during normal business hours, Monday through Friday, 9:00 a.m. to 4:30 p.m., and photocopies may be made at the self-serve copiers in Room 239 during these hours. During these scheduled Friday closings any urgent requests for information will be addressed on a case-by-case basis by contacting the Reference Operations Division located at 1919 M Street, N.W. 239, (202) 418-0270.

For further information you may contact Patricia Rawlings at (202) 418-0294 or Bill at (202) 418-0267.

-FCC-

EXHIBIT III

APRIL 17, 1998

Net access differs by race, study says

By The Associated Press

WASHINGTON — White students in high school and college are far more likely than blacks to have home computers and use the World Wide Web, even after accounting for differences in income, according to a new study.

"A significant segment of our society is in danger of being denied equal access to the Internet," the authors said.

The study, published today in Science magazine, found that white people in general are more likely to have a computer at home and to have used the Web recently. But the biggest disparities surfaced when comparing students, "the most disturbing instance yet of when race matters in Internet access," the study said.

"We can't explain that by income," said Donna Hoffman, an associate professor at Vanderbilt University, who helped write the study. "There must be some racial or cultural or social factors."

The study indicated that 73 percent of white students had a computer at their home but only 33 percent of black students did. The gap remained even when researchers accounted for differences in income.

Among all ages, 44 percent of whites owned a home computer, compared with 29 percent of blacks.

The study was based on telephone interviews of 5,813 people in December 1996 and January 1997 by Nielsen Media Research. There was no margin of error provided.

"The rewards of this democratic communication that people are suggesting will come from the Internet ... won't be available to everyone," Hoffman said.

The study indicated 59 percent of whites used the Web in the past six months, compared with 31 percent of blacks. The gap was widest among races when people didn't own a home computer. Researchers said that suggests white students without their own computers are finding other places — such as schools, libraries or cybercafes — to access the Internet.

"When there is no home computer, white students are more than twice as likely to have used the Web in the past six months and more than three times as likely to have used the Web in the past week," Hoffman said. "That is an astonishing difference. White students, but not African-American students, are finding other ways to access the Internet. It's a very disquieting result."